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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,395	08/30/2001	Kouhei Kabuki	1743/192	8228
23838	7590	04/11/2005	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005			LAUCHMAN, LAYLA G	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EX-1

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/943,395	KABUKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	L. G. Lauchman	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 March 2004.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2 and 6-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,6-9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/2004 and 6/2004

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

Request for Continued Examination (RCE) filed 3/19/2004 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe (US 4,545,681).

As to Claim 1, Watanabe teaches a spectrophotometer (see col. 3, lines 42-62, col. 7, line 63 through col. 8, line 43) having a light source 2 for emitting an optical beam, a photodetector 5 that changes in sensitivity with changes in applied voltage, an analog-to-digital converter 13 by which electrical signals from said photodetector are converted into digital signals, a digital storage means 10 for storage of said digital signals corresponding to the light of said beam, and a control means 14 for controlling a voltage applied to said photodetector, wherein said control means is further equipped with an applied voltage storage means for previously storing said applied voltage corresponding to a wavelength thereof, said applied voltage means being corrected so as to be in a proper range, wherein when measuring a sample, a voltage value

corresponding to said wavelength to be measured is read out from said applied voltage storage means so as to apply a voltage having said voltage value to said photodetector.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (US 4,545,681), in view of Maeda et al (US 4,180,327).

Watanabe teaches a spectrophotometer (see col. 3, lines 42-62, col. 7, line 63 through col. 8, line 43) having a light source 2 for emitting an optical beam, a beam splitting beams, a photodetector 5 that changes in sensitivity with changes in applied voltage, an analog-to-digital converter 13 by which electrical signals from said photodetector are converted into digital signals, a digital storage means 10 for storage of said digital signals corresponding to the light of said beam, and a control means 14 for controlling a voltage applied to said photodetector, wherein said control means is further equipped with an applied voltage storage means for previously storing said applied voltage corresponding to a wavelength thereof, said applied voltage means being corrected so as to be in a proper range, wherein when measuring a sample, a voltage value corresponding to said wavelength to be measured is read out from said applied voltage storage means so as to apply a voltage having said voltage value to said photodetector.

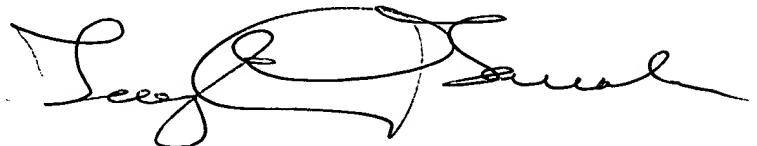
Watanabe's control means does not calculate a ratio of outputs of said photodetector corresponding to said two beams. Maeda teaches a spectrophotometer having a processor unit adapted to determine a ratio S/R, which is displayed on a display device (see col. 4, lines 29-46). It would have been obvious to one skilled in the art at the time the invention was made to provide the control means of Watanabe with ability to calculate a ratio of outputs of the photodetector, in order to keep the signals within a predetermined range during the measurement of a sample.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418. The examiner's normal work schedule is 8:00am to 4:30pm (EST), Monday through Friday. If attempts to reach examiner by the telephone are unsuccessful, the examiner's supervisor Gregory J. Toatley, Jr. can be reached on (571) 272-2059, ext. 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.



L. G. Lauchman  
Primary Examiner  
Art Unit 2877

March 30, 2005